

ESTTA Tracking number: **ESTTA491029**

Filing date: **08/24/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054629
Party	Plaintiff Sheltered Wings, Inc.
Correspondence Address	JENNIFER L GREGOR GODFREY & KAHN SC ONE EAST MAIN STREET, SUITE 500 MADISON, WI 53703 UNITED STATES jgregor@gklaw.com, jpeterson@gklaw.com, apeterson@gklaw.com, docketing@gklaw.com
Submission	Other Motions/Papers
Filer's Name	Jennifer L. Gregor
Filer's e-mail	jgregor@gklaw.com, jschwartz@gklaw.com, apeterson@gklaw.com, jpeterson@gklaw.com
Signature	/Jennifer L. Gregor/
Date	08/24/2012
Attachments	2012-08-24 Declaration of Jacqueline Schwartz.pdf ( 3 pages )(118413 bytes ) Ex L - Wohali's Verified Responses to ROGs_Cancellation Proceeding.pdf ( 18 pages )(512264 bytes ) Ex M - 2,365,057 TSDR Status Report - Eagle's Bluff.pdf ( 4 pages )(14311 bytes ) Ex N - July 2011 Foster Decl_WI District Court.pdf ( 18 pages )(655596 bytes ) Ex O - OK SOS Record_Wohali Company Info.pdf ( 2 pages )(50489 bytes ) Ex P - Wohali.arcoutdoors Website.pdf ( 2 pages )(75183 bytes ) Ex Q - 3,911,635 Cert_Status Rpt - Wohali.pdf ( 5 pages )(556458 bytes )

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Correspondence Address	JENNIFER L GREGOR GODFREY & KAHN SC ONE EAST MAIN STREET, SUITE 500 MADISON, WI 53703 UNITED STATES jgregor@gklaw.com, jpeterson@gklaw.com, apeterson@gklaw.com, docketing@gklaw.com
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Signature	/Jennifer L. Gregor/
Date	08/24/2012
Attachments	2012-08-24 Declaration of Jacqueline Schwartz.pdf ( 3 pages )(118413 bytes ) Ex L - Wohali's Verified Responses to ROGs_Cancellation Proceeding.pdf ( 18 pages )(512264 bytes ) Ex M - 2,365,057 TSDR Status Report - Eagle's Bluff.pdf ( 4 pages )(14311 bytes ) Ex N - July 2011 Foster Decl_WI District Court.pdf ( 18 pages )(655596 bytes ) Ex O - OK SOS Record_Wohali Company Info.pdf ( 2 pages )(50489 bytes ) Ex P - Wohali.arcoutdoors Website.pdf ( 2 pages )(75183 bytes ) Ex Q - 3,911,635 Cert_Status Rpt - Wohali.pdf ( 5 pages )(556458 bytes )

	)	
In re Registration No. 3,904,929	)	
	)	
SHELTERED WINGS, INC.	)	
	)	Cancellation No. 92054629
Petitioner,	)	
	)	
v.	)	
	)	
WOHALI OUTDOORS, LLC	)	
	)	
Respondent.	)	
	)	

I, Jacqueline M. Schwartz, declare as follows:

1. I am a paralegal at the law firm of Godfrey & Kahn, S.C., counsel for petitioner, Sheltered Wings, Inc. I have personal knowledge of the facts in this declaration and, if called upon, I could and would testify to these facts.

2. Attached as **Exhibit A** is a true and correct copy of the registration certificate for U.S. Trademark Registration No. 2,886,199 for the mark EAGLE OPTICS, and the corresponding TSDR status report downloaded on August 23, 2012 from the USPTO website at <http://tsdr.uspto.gov/> (the “USPTO Website”).

3. Attached as **Exhibit B** is a true and correct copy of the prosecution file history for the application that resulted in U.S. Trademark Registration No. 2,886,199 for the mark EAGLE OPTICS, which was downloaded on August 23, 2012 from the USPTO Website.

4. Attached as **Exhibit C** is a true and correct copy of the registration certificate for U.S. Trademark Registration No. 3,192,083 for the mark EAGLE OPTICS and design, and the

corresponding TSDR status report downloaded on August 23, 2012 from the USPTO Website.

5. Attached as **Exhibit D** is a true and correct copy of the prosecution file history for the application that resulted in U.S. Trademark Registration No. 3,192,083 for the mark EAGLE OPTICS and design, which was downloaded on August 23, 2012 from the USPTO Website.

6. Attached as **Exhibit E** is a true and correct copy of the registration certificate for U.S. Trademark Registration No. 3,787,739 for the mark GOLDEN EAGLE, and the corresponding TSDR status report downloaded on August 23, 2012 from the USPTO Website.

7. Attached as **Exhibit F** is a true and correct copy of the prosecution file history for the application that resulted in U.S. Trademark Registration No. 3,787,739 for the mark GOLDEN EAGLE, which was downloaded on August 23, 2012 from the USPTO Website.

8. Attached as **Exhibit G** is a true and correct copy of the prosecution file history for trademark application Serial No. 85/095,903 for the mark EAGLE, which was downloaded on August 23, 2012 from the USPTO Website.

9. Attached as **Exhibit H** is a true and correct copy of the registration certificate for U.S. Trademark Registration No. 3,904,929 for the mark STEEL EAGLE, and the corresponding TSDR status report downloaded on August 23, 2012 from the USPTO Website.

10. Attached as **Exhibit I** is a true and correct copy of the prosecution file history for the application that resulted in U.S. Trademark Registration No. 3,904,929 for the mark STEEL EAGLE, which was downloaded on August 23, 2012 from the USPTO Website.

11. Attached as **Exhibit J** is a true and correct copy of the registration certificate for U.S. Trademark Registration No. 2,084,361 for the mark EAGLEVIEW, and the corresponding TSDR status report downloaded on August 23, 2012 from the USPTO Website.

12. Attached as **Exhibit K** is a true and correct copy of the prosecution file history,

available from the USPTO Website, for the application that resulted in U.S. Trademark Registration No. 2,084,361 for the mark EAGLEVIEW, which was downloaded on August 23, 2012 from the USPTO Website.

13. Attached as **Exhibit L** is a true and correct copy of Wohali's verified responses to Petitioner's first set of interrogatories, in this proceeding.

14. Attached as **Exhibit M** is a true and correct copy of the TSDR status report for Registration No. 2,365,057 for the mark EAGLE'S BLUFF, which was downloaded on August 23, 2012 from the USPTO Website.

15. Attached as **Exhibit N** is a true and correct copy of the Declaration of Brett L. Foster filed on July 7, 2011 in the U.S. Western District of Wisconsin Case No. 11-CV-300, *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*.

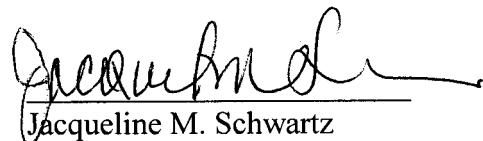
16. Attached as **Exhibit O** is a true and correct copy of an "entity summary" record from the website for the Oklahoma Secretary of State showing that Wohali Outdoors, LLC ("Wohali") was formed on February 10, 2009.

17. Attached as **Exhibit P** is a true and correct copy of a screenshot of the homepage of Wohali's website at <http://wohali.arcoutdoors.com>.

18. Attached as **Exhibit Q** is a true and correct copy of the registration certificate for U.S. Trademark Registration No. 3,911,635 for the mark WOHALI, and the corresponding TSDR status report downloaded on August 24, 2012 from the USPTO Website.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on August 24, 2012, in Madison, Wisconsin.

  
Jacqueline M. Schwartz

**EXHIBIT L**  
**TO DECLARATION OF**  
**JACQUELINE M. SCHWARTZ**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Registration No. 3,904,929	)	
	)	
SHELTERED WINGS, INC.	)	
	)	Cancellation No. 92054629
Petitioner,	)	
	)	
v.	)	
	)	
WOHALI OUTDOORS, LLC	)	
	)	
Respondent.	)	

**WOHALI OUTDOORS, LLC'S RESPONSES TO  
SHELTERED WINGS, INC.'S FIRST SET OF INTERROGATORIES**

Respondent Wohali Outdoors, LLC ("Wohali"), provides its answers/responses and objections to Petitioner, Sheltered Wings, Inc.'s ("Petitioner", "Wings" or "Sheltered Wings"), first set of interrogatories.

**OBJECTIONS AND CONDITIONS**

**APPLICABLE TO ALL DISCOVERY REQUESTS**

The following objections and conditions qualify each and every answer/response by Wohali herein and are incorporated by this reference into each and every answer/response, as if set forth fully therein:

1. Wohali objects to the definitions and instructions contained in Petitioner's discovery requests to the extent they attempt to impose obligations or requirements upon Wohali beyond those imposed by the applicable procedural rules. Wohali will respond to Petitioner's discovery requests in accordance with the applicable procedural rules.

2. Wohali objects to each of Petitioner's discovery requests to the extent that they call for the disclosure of information or documents which is protected from discovery and privileged for the reason that it: (a) is subject to the attorney-client privilege; (b) is covered by the "work product" immunity; (c) is subject to the self critical analysis privilege; (d) is subject to the required reports privilege; (e) was generated in anticipation of litigation or for trial by or for Wohali or its representatives, including its attorneys, consultants or agents; (f) relates to the identity or opinions of experts who have been retained or employed in anticipation of litigation and who are not expected to be called as witnesses at trial; (g) is confidential and/or protected as a trade secret; (h) is subject to a protective or confidentiality agreement or order; and/or (i) is otherwise privileged or beyond the scope of discovery under applicable rules and laws. Wohali will not produce privileged information or documents and its responses should be read accordingly. Wohali will not produce confidential information absent the entry of an appropriate protective order.

3. By responding to Petitioner's discovery requests, Wohali concedes neither the relevancy nor the admissibility of any information provided or documents produced in response to such requests. The production of information or documents in response to a specific discovery request does not constitute an admission that such information is probative of any particular issue in this case.

4. Wohali objects to each discovery request to the extent that it seeks information which is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Wohali further objects to each discovery request to the extent that it is overly broad, unduly vague, ambiguous and/or unduly burdensome.



5. Wohali objects to each discovery request to the extent it seeks information for the purpose of causing annoyance, embarrassment, oppression or to cause undue burden and expense to Wohali.

6. Any statement hereinafter that inspection will be permitted or that documents will be produced does not signify that responsive documents actually exist, but means only that if such responsive documents exist, subject to objections by Wohali, they will be produced for inspection.

Discovery is continuing as is Wohali's investigation into this matter. Wohali reserves its right to supplement, amend and/or revise these responses to Petitioner's discovery requests.

Subject to these objections and conditions applicable to all discovery requests, Wohali responds as follows:

### **ANSWERS**

**INTERROGATORY NO. 1:** Describe fully the facts and circumstances surrounding the creation, design, development, selection and adoption of the STEEL EAGLE mark by Wohali, including an identification of the persons most knowledgeable about the creation, design, development, selection and adoption of the STEEL EAGLE mark by Wohali.

**ANSWER:** Wohali objects as the request seeks privileged and confidential information. Subject to these specific objections and the objections and conditions applicable to all discovery requests and without waiving same:

JT Griffin reviewed the need for a series or sub-line trademark to identify various categories of products under the Wohali brand. Wohali is the Cherokee word for Eagle and other

companies within the group involved steel. At [www.uspto.gov](http://www.uspto.gov), JT Griffin performed a search for STEEL EAGLE. After finding no conflicting marks, Frank J. Catalano with GableGotwals (legal counsel) was consulted.

The two most knowledgeable individuals are JT Griffin and Frank J. Catalano. Both are identified on Wohali's preliminary witness list provided to Petitioner's counsel on March 2, 2012.

**INTERROGATORY NO. 2:** Identify each of the goods and services with which Wohali has used or intends to use the STEEL EAGLE mark and state whether the mark is currently in use with such goods or services.

**ANSWER:** Wohali objects as the request seeks information not relevant or reasonably calculated to lead to admissible evidence. Wohali further objects because the request is vague and ambiguous. Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

- (i) Scopes; in use
- (ii) Binoculars; in use
- (iii) Apparel (namely rainwear/jackets); in use
- (iv) Apparel (namely pants, rain wear, rainwear, shirts); intent to use
- (v) Fishing rods; in use

**INTERROGATORY NO. 3:** For each of the goods and services with which Wohali has used the STEEL EAGLE mark, identify Wohali's first use of the mark in interstate and intrastate commerce, and whether and when there has been any discontinuation, break, or interruption in Wohali's use of the mark.

**ANSWER:** Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

- (i) Scopes; October 21, 2009; No discontinuation, break or interruption.
- (ii) Binoculars; October 21, 2009; No discontinuation, break or interruption.
- (iii) Fishing Rods; Spring 2009; No discontinuation, break or interruption.
- (iv) Rainwear/Jackets; February 2012; No discontinuation, break or interruption.

**INTERROGATORY NO. 4:** Identify and describe all surveys, studies, searches, or investigations conducted by or for Wohali that refers or relates to the proposed or actual use of any mark containing the term EAGLE, or to Petitioner or any of its trademarks, trademark applications or registrations.

**ANSWER:** Wohali objects as the request seeks information not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague and ambiguous. This cancellation proceeding concerns the mark “STEEL EAGLE” and does not pertain to any other mark. Wohali objects to the extent the request seeks privileged and/or confidential information. Wohali objects to Petitioner’s claim that it has any trademarks, trademark applications or registrations. By responding, Wohali is not admitting to or conceding anything stated by Petitioner. Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

A search for STEEL EAGLE was performed at [www.uspto.gov](http://www.uspto.gov).

**INTERROGATORY NO. 5:** Identify and describe the actual and intended channels of trade for the products and services provided by Wohali in connection with the STEEL EAGLE mark.

**ANSWER:** Wohali objects because the request is overly broad, unduly vague and ambiguous. Wohali objects to the extent the request seeks privileged and/or confidential information. Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

Wholesale, distribution and retail channels are all used and intended to be used.

**INTERROGATORY NO. 6:** Identify and describe the actual and intended categories or demographics of consumers or potential consumers who purchase or who may purchase the products and services provided by Wohali in connection with the STEEL EAGLE mark.

**ANSWER:** Wohali objects because the request is overly broad, unduly vague and ambiguous. Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

Outdoor related product consumers located geographically within the United States are intended to be consumers or potential customers.

**INTERROGATORY NO. 7:** Identify all instances in which any person has been or has claimed to be actually confused, mistaken, or deceived as to the affiliation, connection, or association of Wohali and Petitioner, or approval or connection as to any products or services of Wohali and Petitioner.

**ANSWER:** Wohali objects because the request is overly broad, unduly vague and ambiguous. Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

Wohali is not aware of any person responsive to the request. However, within paragraph 9 of its Petition for Cancellation Petitioner makes the unsupported allegation that Wohali's STEEL EAGLE mark is "likely to confuse the purchasing public as to the source of Wohali's

goods or to cause mistake or to deceive as to an affiliation, connection, or association with Sheltered Wings in violation of Section 2(d) of the United States Trademark Act (15 U.S.C. § 1052(d)).” Further, the USPTO denied Petitioner’s application because it “so resembles the mark in U.S. Registration No. 3904929 [Wohali’s STEEL EAGLE mark] as to be likely to cause confusion, or to cause mistake, or to deceive.” (See Wohali’s Ex. 2 at p. 3.)

**INTERROGATORY NO. 8:** For each of the goods and services with which Wohali has used the STEEL EAGLE mark, state the average sales price of each type of goods or services for each year since Wohali began use of the mark.

**ANSWER:** Wohali objects as the request seeks information not relevant or reasonably calculated to lead to admissible evidence. Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

- (i) Binoculars - \$75 wholesale price
- (ii) Jackets - \$25 wholesale price
- (iii) Fishing Rods - \$20 wholesale price
- (iv) Jackets - \$25 wholesale price

**INTERROGATORY NO. 9:** Identify any third party trademarks or service marks known by Wohali that include the term EAGLE.

**ANSWER:** Wohali objects as the request seeks information not relevant or reasonably calculated to lead to admissible evidence. Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

On the uspto.gov website, as of June 5, 2012 a “basic word search” for “eagle” yielded 4,171 records.

**INTERROGATORY NO. 10:** Describe fully the facts and circumstances surrounding the creation, design, development, selection, and adoption of the GOLDEN EAGLE mark, and any other marks containing the term EAGLE, by Wohali, including an identification of the persons most knowledgeable about the creation, design, development, selection, and adoption of such marks.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali object because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Wohali objects because no definition for “GOLDEN EAGLE” has been provided. (A definition was provided for “STEEL EAGLE”.) Subject to these specific objections and the objections and conditions applicable to all discovery requests (set forth above) and without waiving same:

Concerning STEEL EAGLE, see Answer to Interrogatory No. 1.

**INTERROGATORY NO. 11:** Wohali’s first actual and intended use in interstate and intrastate commerce of the GOLDEN EAGLE mark, and any other marks containing the term EAGLE, for each of the goods and services with which Wohali has used the mark.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. It is unclear what information is being requested. Wohali objects because no definition for “GOLDEN EAGLE mark” has been provided. (A definition was provided for the “STEEL EAGLE”.) Additionally, Wohali also incorporates herein the objections and conditions applicable to all discovery requests (stated above).

**INTERROGATORY NO. 12:** Identify each of the goods and services with which Wohali has used or intends to use the GOLDEN EAGLE mark, and any other marks containing the term EAGLE, and state whether the mark is currently in use with such goods or services.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Wohali objects because no definition for “GOLDEN EAGLE” has been provided. (A definition was provided for “STEEL EAGLE”.) Subject to these specific objections and the objections and conditions applicable to all discovery requests and without waiving same:

Concerning STEEL EAGLE, see Answer to Interrogatory No. 2.

**INTERROGATORY NO. 13:** For each of the goods and services with which Wohali has used the GOLDEN EAGLE mark, or any other marks containing the term EAGLE, identify Wohali’s first use of the mark in interstate and intrastate commerce, and whether and when there has been any discontinuation, break, or interruption in Wohali’s use of the mark.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Wohali objects because no definition for “GOLDEN EAGLE” has been provided. (A definition was provided for “STEEL EAGLE”.) Wohali objects to the extent the request seeks privileged and/or confidential information. Subject to these specific objections and the objections and conditions applicable to all discovery requests (stated above) and without waiving same:

Concerning STEEL EAGLE, see Answer to Interrogatory No. 3.

**INTERROGATORY NO. 14:** Identify and describe any objections by any third party to Wohali's intent to use or use of any mark containing the term EAGLE.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Wohali objects to the extent the request seeks privileged and/or confidential information. Subject to the objections and conditions applicable to all discovery requests (stated above) and without waiving same:

Wohali is not aware of any "objections". However, the following proceedings have been initiated by Wings:

- (i) *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*, Case No. 11-CV-300, U.S. District Court for the Western District of Wisconsin;
- (ii) *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*, Cancellation No. 92054629, U.S. Patent and Trademark Office Before the Trademark Trial and Appeal Board; and
- (iii) *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*, Opposition No. 91205187, U.S. Patent and Trademark Office Before the Trademark Trial and Appeal Board.

**INTERROGATORY NO. 15:** Identify and describe any objections by Wohali regarding any third party's use or intended use of any mark, name, or designation including the term, EAGLE.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Subject to these specific objections and the objections and conditions applicable to all discovery requests (stated above) and without waiving same:



Wohali is unaware of any objections, although it reserves all rights afforded it under the law.

**INTERROGATORY NO. 16:** Describe in detail the circumstances, including dates and persons involved, under which Wohali first acquired knowledge of Petitioner and Petitioner's marks including the term EAGLE.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Wohali objects to the extent the request seeks privileged and/or confidential information. Subject to these specific objections and the objections and conditions applicable to all discovery requests (stated above) and without waiving same:

Wohali became aware that Petitioner alleged it has at least one mark when Wohali received a copy of the "Complaint" filed in *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*, Case No. 11-CV-300, U.S. District Court for the Western District of Wisconsin.

**INTERROGATORY NO. 17:** Identify and describe any proceeding or investigation concerning the STEEL EAGLE mark or products provided in connection with the mark, before the USPTO, Trademark Trial and Appeal Board, Bureau of Customs, Better Business Bureau, Federal Trade Commission, or any other court, agency, or tribunal.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Wohali objects to the extent the request seeks privileged and/or confidential information. Subject to these specific objections and the

objections and conditions applicable to all discovery requests (stated above) and without waiving same:

Wohali is aware of the following proceedings:

- (i) Wohali's Registration No. 3,904,929 and the preceding application process;
- (ii) *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*, Case No. 11-CV-300, U.S. District Court for the Western District of Wisconsin;
- (iii) *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*, Cancellation No. 92054629, U.S. Patent and Trademark Office Before the Trademark Trial and Appeal Board;
- (iv) Application Serial No. 85464085; and
- (v) *Sheltered Wings, Inc. v. Wohali Outdoors, LLC*, Opposition No. 91205187, U.S. Patent and Trademark Office Before the Trademark Trial and Appeal Board.

**INTERROGATORY NO. 18:** Identify all persons who Wohali has consulted or intends to consult as an expert witness in this proceeding and identify the subject(s) of their expertise and the substance of their opinion(s).

**ANSWER:** Wohali objects to the extent the request seeks information that is privileged. Subject to these specific objections and the objections and conditions applicable to all discovery requests (stated above) and without waiving same:

None at this time.

**INTERROGATORY NO. 19:** If Wohali contends that Petitioner's claim is barred by the statute of limitations as pled in Paragraph 11 of Wohali's answer dated December 13, 2011, state the full basis for such contention, including an identification of all facts and documents relation [sic] to such contention, and all persons with knowledge of the basis of such contention.

**ANSWER:** See Answer to Interrogatory No. 20 including all objections.

**INTERROGATORY NO. 20:** If Wohali contends that Petitioner's claim is barred by the doctrines of unclean hands, ratification, waiver, laches, preemption, estoppel and/or equitable estoppel as pled in Paragraph 12 of Wohali's answer dated December 13, 2011, state the full basis for such contention, including an identification of all facts and documents relation [sic] to such contention, and all persons with knowledge of the basis of such contention.

**ANSWER:** Wohali objects as the request seeks information that is not relevant or reasonably calculated to lead to admissible evidence. Wohali objects because the request is overly broad, unduly vague, ambiguous and unduly burdensome. Wohali objects to the extent the request seeks privileged and/or confidential information. Subject to these specific objections and the objections and conditions applicable to all discovery requests (stated above) and without waiving same:

Sheltered Wings entered into a Consent Agreement with Nikon Corporation to allow the "EAGLE VIEW" and "EAGLE OPTICS" marks to co-exist. (See Wohali's Ex. 6, p. 33-38.) This Consent Agreement was entered into after Sheltered Wings was informed that the USPTO Examining Attorney had refused to register Sheltered Wings' mark because it so resembled the mark EAGLEVIEW, U.S. Registration No. 2,084,361 as to be likely to cause confusion, to cause mistake or to deceive.

Sheltered Wings took a contrary position with the USPTO to the position Sheltered Wings has taken here. Sheltered Wings stated: "the term 'Eagle' is a relatively weak mark for optical products". Further, that "The existence of many registered EAGLE marks on various types of optical goods leads to a determination that the mark EAGLE is weak in respect to the goods and the extent of potential confusion is *de minimus* rather than substantial." (See Wohali's Ex. 6, p. 62-66.)

Wohali's STEEL EAGLE mark has been registered and therefore is presumed valid. (See Wohali's Ex. 1.) The USPTO has already denied Petitioner's claim. (See Wohali's Ex. 2, p. 3-4.)

**INTERROGATORY NO. 21:** If Wohali contends that Petitioner's claim is barred based on a lack of jurisdiction as pled in Paragraph 13 of Wohali's answer dated December 13, 2011, state the full basis for such contention, including an identification of all facts and documents relation [sic] to such contention, and all persons with knowledge of the basis of such contention.

**ANSWER:** See Answer to Interrogatory No. 20 including all objections.

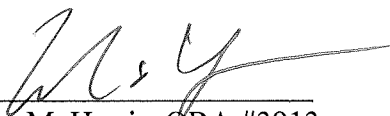
**INTERROGATORY NO. 22:** If Wohali contends that Petitioner's claim is barred based on a failure to state a claim upon which relief can be granted as pled in Paragraph 14 of Wohali's answer dated December 13, 2011, state the full basis for such contention, including an identification of all facts and documents relation [sic] to such contention, and all persons with knowledge of the basis of such contention.

**ANSWER:** See Answer to Interrogatory No. 20 including all objections.

**INTERROGATORY NO. 23:** If Wohali contends that Petitioner's claim is barred by the doctrines of issue preclusion and/or claim preclusion as pled in Paragraph 15 of Wohali's answer dated December 13, 2011, state the full basis for such contention, including an identification of all facts and documents relation [sic] to such contention, and all persons with knowledge of the basis of such contention.

**ANSWER:** See Answer to Interrogatory No. 20 including all objections.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M. Harris', with a long horizontal flourish extending to the right.

Steven M. Harris, OBA #3913

S. Max Harris, OBA #22166

**DOYLE HARRIS DAVIS & HAUGHEY**

1350 South Boulder, Suite 700

Tulsa, OK 74119

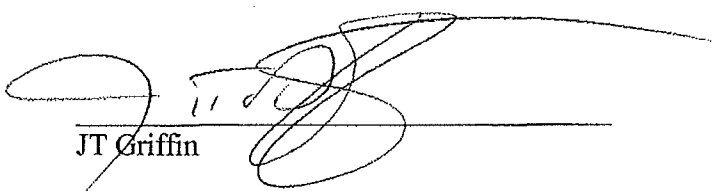
(918) 592-1276

(918) 592-4389 (fax)

Attorneys for Wohali

**VERIFICATION**

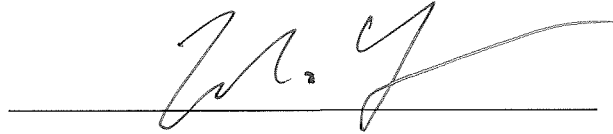
I, JT Griffin, authorized representative of Wohali Outdoors, LLC, of lawful age, being first duly sworn, upon oath, state that I have read the foregoing responses to interrogatories and state that the information contained therein is true and correct to the best of my knowledge and belief.

  
JT Griffin

**CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of Respondent Wohali Outdoors, LLC's Responses to Sheltered Wings, Inc.'s First Set of Interrogatories was sent to the following individuals via Federal Express and E-mail on June 8, 2012:

James D. Peterson  
Jennifer L. Gregor  
GODFREY & KAHN, S.C.  
One East Main Street, Suite 500  
Madison, Wisconsin 53701-2719

A handwritten signature in black ink, appearing to read "J. L. Gregor", is written over a horizontal line.

**EXHIBIT M**  
**TO DECLARATION OF**  
**JACQUELINE M. SCHWARTZ**



**Generated on:** This page was generated by TSDR on 2012-08-23 14:08:59 EST

**Mark:** EAGLE'S BLUFF

**EAGLE'S BLUFF**

**US Serial Number:** 75448217

**Application Filing Date:** Mar. 11, 1998

**US Registration Number:** 2365057

**Registration Date:** Jul. 04, 2000

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registration cancelled because registrant did not file an acceptable declaration under Section 8. To view all documents in this file, click on the Trademark Document Retrieval link at the top of this page.

**Status Date:** Apr. 07, 2007

**Publication Date:** Jul. 20, 1999

**Date Cancelled:** Apr. 07, 2007

---

### Mark Information

---

**Mark Literal Elements:** EAGLE'S BLUFF

**Standard Character Claim:** No

**Mark Drawing Type:** 1 - TYPESET WORD(S) /LETTER(S) /NUMBER(S)

---

### Goods and Services

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**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((.)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** optical apparatus and instruments, namely, binoculars

**International Class:** 009 - Primary Class

**U.S Class:** 021, 023, 026, 036, 038

**Class Status:** SECTION 8 - CANCELLED

**Basis:** 1(a)

**First Use:** Oct. 31, 1998

**Use in Commerce:** Nov. 30, 1998

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### **Basis Information (Case Level)**

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<b>Filed Use:</b>	No	<b>Currently Use:</b>	Yes	<b>Amended Use:</b>	No
<b>Filed ITU:</b>	Yes	<b>Currently ITU:</b>	No	<b>Amended ITU:</b>	No
<b>Filed 44D:</b>	No	<b>Currently 44D:</b>	No	<b>Amended 44D:</b>	No
<b>Filed 44E:</b>	No	<b>Currently 44E:</b>	No	<b>Amended 44E:</b>	No
<b>Filed 66A:</b>	No	<b>Currently 66A:</b>	No		
<b>Filed No Basis:</b>	No	<b>Currently No Basis:</b>	No		

---

### **Current Owner(s) Information**

---

**Owner Name:** GUTMANN CUTLERY, INC.

1821 Valencia Street  
**Owner Address:** Bellingham, WASHINGTON 98226  
UNITED STATES

**Legal Entity Type:** CORPORATION

**State or Country Where Organized:** WASHINGTON

---

### **Attorney/Correspondence Information**

---

#### **Attorney of Record**

**Attorney Name:** MICHAEL R SCHACHT      **Docket Number:** T210303

#### **Correspondent**

**Correspondent Name/Address:** WOODSTOCK INTERNATIONAL INC  
WOODSTOCK INTERNATIONAL INC  
PO BOX 2309  
BELLINGHAM, WA 98227  
UNITED STATES

**Phone** 360-734-3482

**Fax** 360-676-1075

**Domestic Representative - Not Found**

---

### **Prosecution History**

---

<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Apr. 07, 2007	CANCELLED SEC. 8 (6-YR)	
Mar. 15, 2006	CASE FILE IN TICRS	
Jun. 25, 2004	TEAS CHANGE OF CORRESPONDENCE RECEIVED	
Dec. 18, 2002	PAPER RECEIVED	
Jul. 04, 2000	REGISTERED-PRINCIPAL REGISTER	
Apr. 06, 2000	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Apr. 06, 2000	ASSIGNED TO EXAMINER	60740
Apr. 04, 2000	STATEMENT OF USE PROCESSING COMPLETE	
Jan. 26, 2000	USE AMENDMENT FILED	
Oct. 12, 1999	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Jul. 20, 1999	PUBLISHED FOR OPPOSITION	
Jun. 18, 1999	NOTICE OF PUBLICATION	
May 27, 1999	APPROVED FOR PUB - PRINCIPAL REGISTER	
May 17, 1999	CORRESPONDENCE RECEIVED IN LAW OFFICE	
Nov. 13, 1998	NON-FINAL ACTION MAILED	
Oct. 28, 1998	ASSIGNED TO EXAMINER	60740
Oct. 21, 1998	ASSIGNED TO EXAMINER	75601

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### **TM Staff and Location Information**

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**Current Location:** SCANNING ON DEMAND      **Date in Location:** Mar. 15, 2006

**EXHIBIT N**  
**TO DECLARATION OF**  
**JACQUELINE M. SCHWARTZ**

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

<p>SHELTERED WINGS, INC., a Wisconsin corporation, Plaintiff, vs. WOHALI OUTDOORS, LLC, an Oklahoma limited liability company, Defendant.</p>	<p>Civil Case No. 11-CV-300</p>
---	---------------------------------

DECLARATION OF BRETT L. FOSTER

I, Brett L. Foster, testify under oath and penalty of perjury as follows:

1. Holland & Hart LLP serves as counsel for the Plaintiff, Sheltered Wings, Inc. ("Sheltered Wings"), in connection with a number of their intellectual property matters.

2. I have personal knowledge of the matters set forth in this Declaration or believe the matters presented below to be true based upon the knowledge and information I have received and reviewed as intellectual property counsel for Sheltered Wings in connection with this matter.

3. In its opposition papers, Wohali Outdoors, LLC ("Wohali") questions the veracity of Sheltered Wings' statement in its motion that it seeks dismissal of this lawsuit without prejudice for economic reasons. See Opposition at 4 (Dkt. 6). I respond to that issue in this Declaration.

4. Sheltered Wings' trademark prosecution counsel sent a cease and desist letter to

Wohali in an effort to amicably resolve this dispute before filing a complaint. Wohali ignored that letter.

5. Sheltered Wings thereafter elected to prepare and file a complaint. It retained James Peterson, of the Godfrey & Kahn law firm, to serve as record counsel. Our law firm

arranged for service of process.

6. After the lawsuit was served, I commenced settlement discussions with counsel

for Wohali, Steve Harris. I spoke with Mr. Harris a number of times. We also discussed settlement via e-mail. Our e-mail exchanges relating to our settlement discussions are attached as Exhibit 1. Mr. Harris informed me that Wohali's primary business involved selling fishing related products under the STEEL EAGLE mark, and that Wohali had only a "miniscule" use of the STEEL EAGLE mark in connection with optics.

7. Mr. Harris informed me that Wohali had inventory of only \$25,000. He indicated

that Wohali would likely settle and simply discontinue using the mark given their *de minimus* market presence. He requested that the settlement agreement include a provision for Wohali to transition away from that mark by selling the remainder of its inventory over a year's time. As the e-mails attached as Exhibit 1 indicate, Mr. Harris was anxious to receive our settlement proposal. Once I provided him with a proposed agreement, he indicated that he would be back with me the next day. My telephonic discussions with him suggested that we were on the same page and that the terms would likely be agreeable, leaving only minor tweaks to the language of the proposed agreement remaining.

8. On the day I expected Mr. Harris' response to the proposed settlement agreement, he called me and indicated that Wohali's insurance company was going to cover the claim and that insurance counsel would be entering an appearance. I told Mr. Harris that he should have the new insurance counsel call me to discuss the status of our settlement discussions. Insurance counsel never called. Instead, the first notice I received from Wohali's new counsel was a notice from Sheltered Wings' record counsel indicating that an answer had been filed.

9. I thereafter immediately requested that insurance counsel for Wohali (Mark Leitner) contact me to discuss the parties' respective positions on the proposed settlement agreement. After several attempts to communicate via email, we were finally able to talk telephonically. At that time, insurance counsel for Wohali indicated that they would no longer be settling the case.

10. Notwithstanding this disappointing development, given what Sheltered Wings learned about the miniscule nature of Wohali's business and the insignificant amount of inventory, Sheltered Wings elected to dismiss the lawsuit. It viewed Wohali's infringement as *de minimus*. The cost to litigate a trademark infringement case can run several hundred thousand dollars, an expensive prospect simply not justified given the non-existent commercial impact created by Wohali's alleged infringement.

11. Insurance counsel for Wohali mistakenly believes that the Office Action on Sheltered Wings' trademark application, rather than Plaintiff's explanation that the litigation would not be cost-effective, is the real reason for the effort to seek dismissal. Nothing could be further from the truth. Simply put, the conclusions of the United States Patent and Trademark Office's trademark examining attorney ("Examiner") that the parties' respective uses of the

EAGLE and STEEL EAGLE marks in connection with the optics are likely to cause confusion – is precisely what Sheltered Wings pleaded in this case as a basis for relief. Therefore, it appears that Wohali now concedes and that the parties indeed stipulate that there is a likelihood of confusion concerning Wohali's use of the STEEL EAGLE mark and Sheltered Wings' use of the EAGLE mark in connection with optics.

12. The Examiner failed to note the salient fact that Sheltered Wings has approximately 20 years of priority of use of the EAGLE mark in connection with optics over Wohali. Sheltered Wings will prevail on the priority dispute in the Patent Office (likely in a cancellation proceeding), and would prevail on that question in this lawsuit if it is litigated. The only reason Wohali obtained its registration from the Patent Office is because the Examiner handling that application failed to discover Sheltered Wings' registrations. (A true and correct copy of the STEEL EAGLE file history is attached as Exhibit A to Sheltered Wings' reply.) Had the Examiner's search found Sheltered Wings' prior registrations, Wohali's attempt to register STEEL EAGLE for use in connection with optics would have been rejected. If the facts relating to Sheltered Wings' prior registrations are presented to the Patent and Trademark Office in a cancellation proceeding, Wohali's STEEL EAGLE registration will be cancelled.

13. The economics in this case do not justify litigation. The merits strongly favor Sheltered Wings, but no reasonable business could justify spending several hundred thousand dollars to stop the trademark infringement of a company that has had, by its own admission, a "miniscule" amount of sales and inventory of only \$25,000 that will take a year to sell. Based upon the basic economics, the case should have settled. In my view, we reached a framework for settling the case. While I do not believe we had a true "meeting of the minds," absent insurance



coverage, I am absolutely certain that the settlement agreement I drafted would have been slightly modified and signed by both parties resolving this dispute. Given the emergence of insurance and insurance counsel, Sheltered Wings has simply elected to dismiss the case without prejudice and without costs or other relief to either party. If Wohali becomes a major factor that affects Sheltered Wings business in the distant future, then the litigation may be justified. Now it

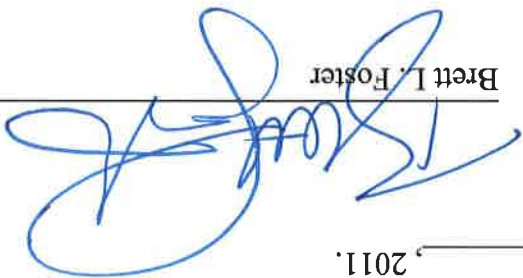
is not.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under Section 1001 of Title 18 of the United States

Code.

Dated this 7<sup>th</sup> day of July, 2011.

Brett I. Foster



# EXHIBIT 1

**Traci Hales**

**Subject:** FW: Sheltered Wings v. Wohall

---

**From:** Steven M. Harris [mailto:steve.harris@1926blaw.com]  
**Sent:** Tuesday, May 10, 2011 1:07 PM  
**To:** Brett Foster  
**Cc:** 'Max Harris'; Grant Foster; 'Phyllis Peck'; 'Lesley James'  
**Subject:** RE: Sheltered Wings v. Wohall

Brett:

I will be in touch with the Wohall owners today regarding your draft of a settlement agreement. Please email me (or fax) a copy of the summons that was issued so I can see who you have specified for service. I am not authorized to accept service for Wohall, but I want to be sure that the correct person has been specified on the summons (and confirm whether the person or entity specified for service has or has not received the summons).

Best regards

Steve Harris

**Steven M. Harris**  
**Doyle Harris Davis & Haughey**  
**1350 S. Boulder**  
**Suite 700**  
**Tulsa, Oklahoma 74119**  
**918-592-1276**  
**918-592-4389 (fax)**  
**www.1926blaw.com**

---

**From:** Brett Foster [mailto:BFoster@hollandandhart.com]  
**Sent:** Tuesday, May 10, 2011 1:15 PM  
**To:** 'Steven M. Harris'  
**Cc:** 'Max Harris'; Grant Foster  
**Subject:** RE: Sheltered Wings v. Wohall

Hi Steve,


Attached is the proposed agreement. Wohall's desire to sell off inventory required use to add provisions that were not in our original draft. I don't know what the status is on service.

I look forward to your response, and hope that we can wrap this up quickly. Please call with any questions.

Regards,

Brett

Web	Site
Practice Areas	People
Card	

**HOLLAND & HART**  
THE LAW OUT WEST

**Brett L. Foster**  
Practice Group Manager,  
Intellectual Property  
Litigation  
[bfoster@hollandhart.com](mailto:bfoster@hollandhart.com)  
**Holland & Hart LLP**  
222 S. Main Street  
Suite 2200  
Salt Lake City, UT 84101  
Phone: 801.799.5836  
Fax: 801.799.5700

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**From:** Steven M. Harris [<mailto:steve.harris@1926blaw.com>]  
**Sent:** Tuesday, May 10, 2011 11:52 AM  
**To:** Brett Foster  
**Cc:** 'Max Harris'  
**Subject:** RE: Sheltered Wings v. Wohall

Brett:

Please advise regarding the status of your draft agreement. Also please advise if you have obtained service of process on the defendant. The client advises that no service has been made on Wohall.

Steve Harris

**Steven M. Harris**  
**Doyle Harris Davis & Haughey**  
**1350 S. Boulder**  
**Suite 700**  
**Tulsa, Oklahoma 74119**  
**918-592-1276**  
**918-592-4389 (fax)**  
**[www.1926blaw.com](http://www.1926blaw.com)**

**From:** Brett Foster [<mailto:BFoster@hollandhart.com>]  
**Sent:** Friday, May 06, 2011 4:42 PM  
**To:** 'Steven M. Harris'  
**Subject:** Sheltered Wings v. Wohall


Hi Steve,

I have a draft agreement going to my client today as well as the transition issue (selling optics inventory) you raised yesterday. I won't hear back from them today. I will get you the draft Monday, I expect, after getting client input.

Have a nice weekend.

Brett

Web	Practice Areas	People	vCard	Site
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**HOLLAND & HART**  
THE LAW OUT WEST

**Brett L. Foster**  
Practice Group Manager,  
Intellectual Property  
Litigation

[bfoster@hollandhart.com](mailto:bfoster@hollandhart.com)  
**Holland & Hart LLP**  
222 S. Main Street  
Suite 2200  
Salt Lake City, UT 84101

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Traci Hales

Subject: FW: Sheltered Wings v. Wohall

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**Doyle Harris Davis & Haughey**  
**1350 S. Boulder**  
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**Tulsa, Oklahoma 74119**  
**918-592-1276**  
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 <b>HOLLAND &amp; HART</b> THE LAW OUT WEST			
<b>Brett L. Foster</b> Practice Group Manager, Intellectual Property Litigation bfoster@hollandandhart.com			
Web	Site	Practice Areas	People
vCard			

Phone: 801.799.5836 **Holland & Hart LLP**  
222 S. Main Street  
Suite 2200  
Salt Lake City, UT 84101

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Practice Group Manager,  
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Thank you.



Traci Hales

**Subject:** FW: Sheltered Wings v. Wohall  
**Attachments:** SHELTERED WINGS\_WOHALI - Settlement Agreement.DOC

**From:** Brett Foster  
**Sent:** Tuesday, May 10, 2011 12:15 PM  
**To:** 'Steven M. Harris'  
**Cc:** 'Max Harris'; Grant Foster  
**Subject:** RE: Sheltered Wings v. Wohall

Hi Steve,

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I look forward to your response, and hope that we can wrap this up quickly. Please call with any questions.

Regards,

Brett

 <b>HOLLAND &amp; HART</b> THE LAW OUT WEST	<b>Brett L. Foster</b> Practice Group Manager, Intellectual Property Litigation bfoster@hollandhart.com <b>Holland &amp; Hart LLP</b> 222 S. Main Street Suite 2200 Salt Lake City, UT 84101 Phone: 801.799.5836 Fax: 801.799.5700
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 <b>HOLLAND &amp; HART</b> THE LAW FIRM <b>Brett L. Foster</b> Practice Group Manager, Intellectual Property Litigation bfoster@hollandhart.com	<b>Holland &amp; Hart LLP</b> 222 S. Main Street Suite 2200 Salt Lake City, UT 84101 Phone: 801.799.5836 Fax: 801.799.5700			
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Thank you.

Traci Hales

**Subject:** FW: Sheltered Wings v. Wohall  
**Attachments:** SHELTERED WINGS\_WOHALI - Settlement Agreement.doc

**From:** Brett Foster  
**Sent:** Monday, May 23, 2011 3:09 PM  
**To:** 'leitner@kravillaw.com'  
**Cc:** 'Peterson, James'  
**Subject:** Sheltered Wings v. Wohall

Hello Mr. Leitner,

I see that you have filed an answer on behalf of Wohall. Welcome to the case.

Prior to insurance company's decision to provide a defense, we talked with prior counsel for Wohall (Steve Harris) about the possibility of a quick, amicable resolution. We outlined a possible framework for an agreement, and, based upon that framework, we drafted up a proposed agreement for Wohall's comment. (I attach a copy for your review.)

The day that Steve promised to get back to me, he received work of the insurance defense that would be provided, and discontinued all work on the case. The first communication I received from new counsel was indirect through the filing of the answer today.

Please give me a call to discuss this case when you have a moment.

Regards,

Brett

 <b>HOLLAND &amp; HART</b> THE LAW FIRM Brett L. Foster Practice Group Manager, Intellectual Property Litigation bfoster@hollandhart.com Phone: 801.799.5836 Fax: 801.799.5700 222 S. Main Street Suite 2200 Salt Lake City, UT 84101	VCARD	PEOPLE	PRACTICE AREAS	WEB
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**Traci Hales**

**Subject:** FW: Sheltered Wings v. Wohall

---

**From:** Mark M. Leitner [mailto:[leitner@kravilaw.com](mailto:leitner@kravilaw.com)]  
**Sent:** Monday, May 23, 2011 3:23 PM  
**To:** Brett Foster  
**Cc:** 'Peterson, James'  
**Subject:** RE: Sheltered Wings v. Wohall

Brett,

Thanks for your email. I will look this over and give you a call, probably tomorrow.

---

**Mark M. Leitner**  
ATTORNEY

**KRAVIT • HOVEL & KRAWCZYK, s.c.**  
825 N. Jefferson, Milwaukee, WI 53202-3737  
414-271-7100 x125 | fax 414-271-8135  
[leitner@kravilaw.com](mailto:leitner@kravilaw.com) | [www.kravilaw.com](http://www.kravilaw.com)

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---

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**To:** Mark M. Leitner  
**Cc:** 'Peterson, James'  
**Subject:** Sheltered Wings v. Wohall

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Phone: 801.799.5836  
**Holland & Hart LLP**  
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Suite 2200  
Salt Lake City, UT 84101

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**EXHIBIT O**  
**TO DECLARATION OF**  
**JACQUELINE M. SCHWARTZ**

## **WOHALI OUTDOORS, L.L.C.**

### Details

Filing Number:

3512220464

Name Type:

Legal Name

Status:

In Existence

Corp type:

Domestic Limited Liability Company

Jurisdiction:

Oklahoma

Formation Date:

10 Feb 2009

### Registered Agent Information

Name:

PAT GUEST

Effective:

10 Feb 2009

Address:

7715 E 111TH ST STE 125

City, State , ZipCode:

TULSA OK 74133

**EXHIBIT P**  
**TO DECLARATION OF**  
**JACQUELINE M. SCHWARTZ**





[Home](#)
[Rainwear](#)
[Fishing Rods](#)
[Optics](#)
[Media](#)
[About Us](#)
[Contact Us](#)

## Welcome to Wohali Outdoors

Wohali was founded on a great passion for spending time outdoors and an appreciation for quality products that make that time a little more enjoyable. We are driven to bring cutting edge products to you while remembering the basics. So wherever your adventure takes you, we hope that it is as memorable as it has been for us to bring you this new line of products.



Congratulations to **Wohali Pro Terry Butcher** for finishing fourth in the Toyota Tundra Bassmaster Angler of the Year.



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**EXHIBIT Q  
TO DECLARATION OF  
JACQUELINE M. SCHWARTZ**

# United States of America

United States Patent and Trademark Office

## WOHALI

**Reg. No. 3,911,635**

**Registered Jan. 25, 2011**

**Int. Cls.: 9, 25, and 28**

**TRADEMARK**

**PRINCIPAL REGISTER**

WOHALI OUTDOORS, LLC (OKLAHOMA LIMITED LIABILITY COMPANY)  
1700 W. ALBANY STREET  
BROKEN ARROW, OK 74012

FOR: OPTICAL MAGNIFYING EQUIPMENT, NAMELY, RIFLE SCOPES, SHOTGUN SCOPES, PISTOL SCOPES, BINOCULARS, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 10-21-2009; IN COMMERCE 10-21-2010.

FOR: CLOTHING, NAMELY, JACKETS, PANTS, RAINWEAR JACKETS, RAINWEAR PANTS, AND RAINWEAR PONCHOS, IN CLASS 25 (U.S. CLS. 22 AND 39).

FIRST USE 7-20-2009; IN COMMERCE 3-5-2010.

FOR: FISHING EQUIPMENT, NAMELY, FISHING RODS, IN CLASS 28 (U.S. CLS. 22, 23, 38 AND 50).

FIRST USE 11-11-2009; IN COMMERCE 11-11-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-689,155, FILED 3-12-2009.

RONALD MCMORROW, EXAMINING ATTORNEY



*David J. Kyfos*

Director of the United States Patent and Trademark Office

**Generated on:** This page was generated by TSDR on 2012-08-24 13:11:49 EST

**Mark:** WOHALI

WOHALI

**US Serial Number:** 77689155

**Application Filing Date:** Mar. 12, 2009

**US Registration Number:** 3911635

**Registration Date:** Jan. 25, 2011

**Register:** Principal

**Mark Type:** Trademark

**Status:** Registered. The registration date is used to determine when post-registration maintenance documents are due.

**Status Date:** Jan. 25, 2011

**Publication Date:** Feb. 02, 2010

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### Mark Information

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**Mark Literal Elements:** WOHALI

**Standard Character Claim:** Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

**Mark Drawing Type:** 4 - STANDARD CHARACTER MARK

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### Goods and Services

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**Note:**

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks \*..\* identify additional (new) wording in the goods/services.

**For:** Optical magnifying equipment, namely, rifle scopes, shotgun scopes, pistol scopes, binoculars

**International Class:** 009 - Primary Class

**U.S Class:** 021, 023, 026, 036, 038

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Oct. 21, 2009

**Use in Commerce:** Oct. 21, 2010

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**For:** Clothing, namely, jackets, pants, rainwear jackets, rainwear pants, and rainwear ponchos

**International Class:** 025 - Primary Class

**U.S Class:** 022, 039

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Jul. 20, 2009

**Use in Commerce:** Mar. 05, 2010

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**For:** Fishing equipment, namely, fishing rods

**International Class:** 028 - Primary Class

**U.S Class:** 022, 023, 038, 050

**Class Status:** ACTIVE

**Basis:** 1(a)

**First Use:** Nov. 11, 2009

**Use in Commerce:** Nov. 11, 2009

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### Basis Information (Case Level)

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**Filed Use:** No      **Currently Use:** Yes      **Amended Use:** No

**Filed ITU:** Yes      **Currently ITU:** No      **Amended ITU:** No

**Filed 44D:** No      **Currently 44D:** No      **Amended 44D:** No

**Filed 44E:** No      **Currently 44E:** No      **Amended 44E:** No

**Filed 66A:** No      **Currently 66A:** No

**Filed No Basis:** No      **Currently No Basis:** No

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### Current Owner(s) Information

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**Owner Name:** Wohali Outdoors, LLC

**Owner Address:** 1700 W. Albany Street  
Broken Arrow, OKLAHOMA 74012  
UNITED STATES

**Legal Entity  
Type:**

LIMITED LIABILITY  
COMPANY

**State or Country  
Where Organized:** OKLAHOMA

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### Attorney/Correspondence Information

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#### Attorney of Record

**Attorney Name:** Frank J. Catalano

**Docket Number:** 008962.00002

#### Correspondent

**Correspondent  
Name/Address:**

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UNITED STATES

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**Fax**

918-595-4990

**Domestic Representative - Not Found**

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### Prosecution History

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<b>Date</b>	<b>Description</b>	<b>Proceeding Number</b>
Jan. 25, 2011	REGISTERED-PRINCIPAL REGISTER	
Dec. 24, 2010	NOTICE OF ACCEPTANCE OF STATEMENT OF USE E-MAILED	
Dec. 23, 2010	LAW OFFICE REGISTRATION REVIEW COMPLETED	77312
Dec. 23, 2010	ASSIGNED TO LIE	77312
Dec. 02, 2010	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	
Nov. 20, 2010	STATEMENT OF USE PROCESSING COMPLETE	76873
Oct. 26, 2010	USE AMENDMENT FILED	76873
Nov. 12, 2010	CASE ASSIGNED TO INTENT TO USE PARALEGAL	76873
Oct. 29, 2010	PAPER RECEIVED	
Apr. 27, 2010	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Feb. 02, 2010	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
Feb. 02, 2010	PUBLISHED FOR OPPOSITION	
Dec. 30, 2009	LAW OFFICE PUBLICATION REVIEW COMPLETED	78145

Dec. 26, 2009	APPROVED FOR PUB - PRINCIPAL REGISTER	
Dec. 24, 2009	AMENDMENT FROM APPLICANT ENTERED	78145
Dec. 24, 2009	CORRESPONDENCE RECEIVED IN LAW OFFICE	78145
Dec. 24, 2009	ASSIGNED TO LIE	78145
Dec. 14, 2009	PAPER RECEIVED	
Jun. 05, 2009	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jun. 05, 2009	NON-FINAL ACTION E-MAILED	6325
Jun. 05, 2009	NON-FINAL ACTION WRITTEN	73708
Jun. 04, 2009	ASSIGNED TO EXAMINER	73708
Mar. 16, 2009	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Mar. 16, 2009	NEW APPLICATION ENTERED IN TRAM	

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### TM Staff and Location Information

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<b>Current Location:</b>	PUBLICATION AND ISSUE SECTION	<b>Date in Location:</b> Dec. 23, 2010
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